

United States District Court
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA

vs.

ELIZABETH ARMIJO

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Case No. 4:07cr228
(Judge Schell)

REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Judge referred the matter to this Court for a report and recommendation, the Court conducted a hearing on July 15, 2010, to determine whether Defendant violated her supervised release. Defendant was represented by Denise Benson. The Government was represented by Randall Blake.

On September 4, 2008, Defendant was sentenced by the Honorable Marcia A. Crone to twenty-one (21) months' custody followed by one (1) year of supervised release for the offense of Misprision of a Felony. On April 29, 2009, Defendant completed her period of imprisonment and began service of her supervised term.

On April 16, 2010, the U.S. Pretrial Services Officer executed a Petition for Warrant for Offender Under Supervision. The petition asserted that Defendant violated the mandatory condition that she refrain from any unlawful use of a controlled substance. The petition also alleged violations of the following standard conditions: (1) the defendant shall report to the probation officer, and shall submit a truthful and complete written report within the first five days of each month; and (2) that defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance, or any paraphernalia related to any controlled substances, except as prescribed by a physician. The petition alleges violation of the following special condition:

the defendant shall participate in a program of testing and treatment for drug abuse, under the guidance and direction of the U.S. Probation Office, until such time as the defendant is released from the program by the probation officer.

The petition alleges that Defendant committed the following acts: (1) The Defendant failed to report in person to the U.S. Probation Office, Northern District of Texas, as directed on February 8, 24, and 26, 2010; and March 3 and 22, 2010; (2) Defendant submitted urine specimens that tested positive for marijuana on December 17, 2009, January 12, 2010, January 19, 2010, February 3, 2010, and February 9, 2010; and (3) Defendant failed to attend her counseling session at Pillar Counseling, Dallas, Texas, on March 4, 2010. Additionally, she failed to report for random drug testing as directed on March 2, 2010 and March 9, 2010.

Prior to the Government putting on its case, Defendant entered a plea of true to all of the violations. The guideline range for these violations is three to nine months.

RECOMMENDATION

The Court recommends that the District Judge revoke Defendant's supervised release. Pursuant to the Sentencing Reform Act of 1984, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of three (3) months with no supervised release to follow. It is also recommended that Defendant be housed in the FMC Carswell.

After the Court announced the recommended sentence, Defendant executed the consent to revocation of supervised release and waiver of right to be present and speak at sentencing. Defendant and the Government also waived their right to file objections.

SIGNED this 16th day of July, 2010.

A handwritten signature in black ink, reading "Amos Mazzant", written over a horizontal line.

AMOS L. MAZZANT
UNITED STATES MAGISTRATE JUDGE